

## **CORRECTIVE ACTION**

**5505**

(No. 6 January 1999)

A corrective action proceeding is authorized under PRC Sections 4607-4611. Because it is a civil action, it may be initiated concurrently with or after a misdemeanor action, license disciplinary action, or injunctive action, or independently of any other action that may be taken. The region should initiate a request or recommendation for a corrective action proceeding to the Director's resource management staff whenever there are substantial violations, especially those apt to have long-term or severe adverse environmental impacts if not corrected, and it appears there is doubt, uncertainty, or delay in correcting the violations by other means. A corrective action proceeding is an especially useful tool when the operator has disappeared, is not reachable, or cannot be made to correct his violations for whatever reason. It is often best to recommend a corrective action in flagrant cases, concurrently with other enforcement actions that may be necessary, to save time if the other action is ineffective in gaining compliance.

## **CORRECTIVE PROCEDURE**

**5505.1**

(No. 6 January 1999)

Corrective action begins with a "Notice of Intent to Take Corrective Action" from the Director. The Attorney General has authorized the Director to prepare the notice and send it to the party responsible for the violation. While the operator is normally the primary party responsible, the timber owner and timberland owner (if separate parties) are also responsible parties, so that the operator, the timber owner, and timberland owner are all severally and jointly liable for the corrective action. Therefore, the notice will be sent to as many of these parties as are separate entities. A copy of the notice should be sent to the county recorder for recording as soon as the ten-day period allowed for a hearing has passed without request for a hearing, or as soon as the board's decision has been given after a hearing has been held.

## **CONTENT OF CORRECTIVE NOTICE**

**5505.2**

(No. 6 January 1999)

The Notice of Intent to Take Corrective Action will be prepared by the regional forest practice staff in draft form and forwarded to the department's resource management staff. The resource management staff will review the notice, in coordination with the department's staff counsel, who is responsible for putting the notice in its final form and sending it to the respondent.

The notice will be modeled after those used in previous cases in the region or Director's office and contain the following elements, as specified in PRC Section 4608:

- A statement of the corrective action to be taken, including a detailed prescription for the work to be done, such as the length of road section to be drained or the number of snags to be felled; the locations where the corrections are to be made, such as the name of the creek at the crossing where the culvert is to be installed, together with the location by the nearest legal quarter, quarter section, township and range, and base and meridian; referenced to and accompanied by a legible map showing the locations of the corrections to be made using appropriate symbols and legend. The statement should be as specific as possible, as if writing a contract for corrective action for a contractor who is unfamiliar with the area.
- A date, not less than 30 days from the date of service, by which the corrective action is to be taken.
- A statement that if the corrective action is not taken on or before the date specified, the Director may take such corrective action, and charge the person(s) responsible for the costs thereof, pursuant to PRC Section 4610.
- A statement that
  - If the person(s) responsible for the violations disagree with the proposed corrective action or the charging for the costs thereof, such person(s) may within ten days from the service of the notice request a public hearing before the State Board of Forestry.
  - Such a request should be made in writing addressed to the executive officer of the State Board of Forestry, 1416 Ninth Street, Room 1506-14, Sacramento, CA 95814.

## **INSPECTION AFTER SERVING NOTICE OF CORRECTIVE ACTION**

**5505.3**

(No. 6 January 1999)

A forest practice inspection will be made immediately after the end of the period specified in the Notice of Intent to Take Corrective Action. A copy of the inspection report, with an appropriate narrative description of the conditions and circumstances, will be sent immediately to the Director's office. If the corrective work has not been initiated, or if it has been only partially done and abandoned without any further apparent intent of completion, the department's staff counsel, in consultation with the region chief's office and the Sacramento resource management staff, will notify the respondents that the department is initiating the corrective action either through a contractor or with CDF manpower and equipment, as previously predetermined. The resource management staff will then arrange for the work to be done. If the owner or operator has completed corrective work, a "[Notice of Correction of Forest Practice Rule Violations](#)" should be recorded at the county recorder, with copies sent to the owner and operator.

## **BILLING FOR CORRECTIVE WORK**

**5505.4**

(No. 6 January 1999)

When corrective work initiated by the department has been completed, the resource management staff, in coordination with staff counsel and the accounting office, will see that the billing for the work is made and, if not paid, that the prescribed [Notice of Lien](#) is sent and recorded.

To facilitate payment to a contractor and preparation of a letter of demand for payment of corrective costs to be served on the operator and timber owner, the region will send four copies of the following documents to the resource management staff immediately upon completion of corrective work.

- Invoices signed by contractor.
- Authorization for Payment of Invoices (AO-117).
- Contractor Evaluation Sheet (STD 4, Rev. 3/75).
- Complete accounting of personnel time by name, civil service class, and date for each individual; expenses, costs, and description of materials furnished by the state; and exact vehicle type and mileage used by CDF personnel. Include invoices for all materials. (Rates will be calculated in Sacramento.)

Prompt reporting is essential, as there are only 90 days in which to complete the billing and have any necessary lien recorded. If paid, the staff counsel will see that the payment is properly acknowledged and entered in the department's records and the operator's file.

FORMS AND/OR FORMS SAMPLES: RETURN TO ISSUANCE HOME PAGE  
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